

418 KAR 1:070. Remedies.

RELATES TO: KRS 146.550-146.570

STATUTORY AUTHORITY: KRS 146.560(2), 146.565

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) requires the board to promulgate administrative regulations necessary for the application for funds from agencies established in KRS 146.570, review and approval of projects and grants, and acquisition of land. This administrative regulation establishes the requirements for maintaining land acquired with fund money and enables the board to ensure that fund money is used for acquisition and management, in accordance with KRS 146.560.

Section 1. Forfeiture of Funds.

(1)(a) Except as established in paragraph (b) of this subsection, funds approved by the board pursuant to KRS 146.570(4)(f) for land acquisition which, within two (2) years of board approval, are not expended on acquisition of approved land shall revert to the fund.

(b) The board may grant an extension upon receipt of a written request if all terms of the MOA or written agreement for the project site have been met by the applicant.

(2)(a) Except as established in paragraph (b) of this subsection, funds initially approved by the board for management pursuant to KRS 146.570(4)(f) which, within two and one-half (2 1/2) years of receipt of funds from the board, are not expended on management of approved land shall revert to the fund unless otherwise approved by the board to implement continued management activities under the approved management plan for the project site.

(b) The board may grant an extension upon receipt of a written request.

Section 2. Forfeiture of Land. (1) Land acquired with fund money shall be subject to forfeiture. The board may initiate legal proceedings for forfeiture for:

(a) Failure to maintain and manage land acquired with fund proceeds for the purposes established in KRS 146.560(2)(a)-(d);

(b) Violation of a memorandum of agreement between the board and the recipient of fund money;

(c) Violation of the terms of a conservation easement pertaining to land purchased, in whole or in part, with fund proceeds;

(d) Falsification of information or inaccurate information in the grant application;

(e) Failure to provide, within ninety (90) days of acquisition, verification of land acquisition and money expended for acquisition;

(f) Falsification of information or inaccurate information in the preliminary or final RMP;

(g) Failure to adhere to, or implement, the most recent RMP that has received board approval;

(h) Failure to submit a final RMP to the board within two and one-half (2 1/2) years of receipt of funds from the board;

(i) Expenditure of fund money on anything other than items that have received prior board approval;

(j) Failure to provide verification of money expended on management of the land, unless the recipient has requested and received an extension of time. The board may, upon evidence that funds have been allocated to implement management activities under the approved management plan for the project site, grant an extension upon receipt of a written request;

(k) Failure to submit reports to the board pursuant to 418 KAR 1:060, Section 10;

(l) An attempt to transfer land in violation of 418 KAR 1:060, Section 12; or

(m) Dissolution of the recipient entity.

(2) Land forfeited pursuant to this administrative regulation shall be transferred to an appropriate land management entity, as designated by the board. Forfeited land shall continue to be managed in accordance with 418 KAR 1:060, Section 1.

Section 3. Remedies. The board may utilize all remedies available to it by law, including an injunction and restraining order to enforce the provisions of KRS 146.550 through 146.570, 418 KAR Chapter 1, and any other applicable laws of the Commonwealth of Kentucky; any application submitted to the board; any memorandum of agreement between the board and a recipient of fund money; any conservation easement or deed restriction, or articles of dedication pertaining to land purchased, in whole or in part, with fund money; and any RMP approved by the board. (21 Ky.R. 2859; 22 Ky.R. 96; eff. 7-12-1995; 25 Ky.R. 2948; 26 Ky.R. 597; eff. 9-8-1999; 39 Ky.R. 854; 1397; eff. 2-1-2013; 45 Ky.R. 1813, 2662; eff. 4-5-2019.)